

REMARKS

Status of the Claims

Claims 51-61 are pending. Claims 51-55, 57, 58, and 60 are amended.

Summary of Prosecution History

As previously discussed with the Examiner, the prosecution history of this Application is lengthy. The previous examiner, Examiner Guarriello mailed the first Office Action in May, 2000.

Applicants submit that there have been several issues that have slowed the prosecution of this application. One of which is the previous apparent lack of understanding of what a thermoplastic polyolefin elastomer is, as discussed below. A second issue may have been Examiner Guarriello's apparent inability to receive consistent guidance. At least four primary examiners have reviewed this application. Apparent agreements had been reached with Examiner Guarriello (including two interviews at which Applicant's representative was lead to believe that rejections would be easily overcome), but Applicant subsequently received office actions that maintained previous rejections or issued new ones, with little or no discussion of the substance of the interview.

For example, on August 14, 2002, Applicant, Applicant's representative met with Examiner Guarriello and Terrell Morris. We thoroughly discussed the outstanding issues. The Examiner summarized the interview on the Examiner Interview Summary Form as follows:

Agreed if elastomer [sic] added to the claims than this would overcome the prior art of record. However, no allowable claims at this point in time.

With a RCE, Applicant filed an amendment adding the features requested by the Examiner. The next Office Action included a prior art rejection over the same two patents and was signed by a different primary examiner than was present during the interview.

Additionally, as stated above, there has been a lack of understanding of the meaning of a thermoplastic polyolefin resin, and many of the rejections under both 35 U.S.C. § 112 and §§ 102, 103 can be attributed to that fact the Examiner did not distinguish the TPO material of the present invention with any type of prior art polyolefin coating.

For example, the Examiner has stated the following:

It is the Examiner's position that TOP is a genus and applicant's claimed invention is directed to a thermoplastic polyolefin elastomer which is a species of TPO, thus the species should be claimed. (See Paper 27, page 4.)

"Furthermore, applicant's arguments regarding TPO are noted, but TPO is a genus not TPOE [sic], thermoplastic polyolefin elastomer a species..." (See Paper 27, page 5.)

Applicant has cited to the Examiner numerous articles, publications, and other technical information related to and/or describing thermoplastic polyolefins. For example, see Attachment A filed with the Amendment mailed February 4, 2002. Additionally, Applicant has cited numerous references to TPO in the patent literature. For example, see the Amendment filed January 2, 2004.

Applicants have made every effort to amend the claims to satisfy the Examiner, but it appeared that claim clarity, based on the Examiner's understanding of thermoplastic polyolefins, was a moving target. For example, amendments responding to the §112 rejections included, at the Examiner's request, adding "TPO" to the claims (February 4, 2002). Later, an amendment

was filed that, at the Examiner's request, removed "TPO" from the claims (May 5, 2003). Also, §112 rejections have been based on a lack of understanding of what a TPO is ("...it is not clear what [sic] the phrase 'thermoplastic polyolefin coating' refers..." and "it is not clear what [sic] the phrase 'thermoplastic olefin resin' refers..." (Office Action mailed August 1, 2003); "...it is not clear what the specific coating composition comprises..." (Office Action mailed November 2, 2001).

Of course, if Examiner Singh has any questions related to the prosecution history of this application, please feel free to contact the undersigned.

Now turning to the outstanding Office Action, each issue raised therein is discussed below:

Issues Under 35 U.S.C. § 112, Second Paragraph

Claims 51-61 stand rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested. However, this rejection is believed to be moot in view of the above amendment to the claims. More specifically, the Examiner's concerns regarding structure should be specifically addressed by the addition of the chemical barrier material features. Support for these features can be found in the Specification, including on page 7.

Additionally, in connection with this rejection, the office action states that "[t]he claims are very broadly claimed." However, the breadth of a claim, by itself, cannot render a claim indefinite. In re Gardner, 166 U.S.P.Q. 138 (CCPA 1970). Applicant respectfully submits that, as

of the filing date, he was the first to use the recently discovered material, TPO, as a coating on fabrics as claimed. The Specification and the record are replete with examples as to how this coating greatly benefits the field of chemical protective garments.

Issues Under 35 U.S.C. §§ 102, 103

Claims 51-60 stand rejected under 35 U.S.C. §§ 102, 103 as allegedly being anticipated or, in the alternative, allegedly being obvious over, Berta, US 6,162,872. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested.

Berta discloses embossed sheets made from a polyolefin composition containing a propylene material, a partially crosslinked thermoplastic olefin elastomer composition and, optionally, crystalline polyethylene. These sheets are used to make large parts such as automobile doors.

Berta fails to disclose or suggest the chemical barrier material as claimed, including the base sheet, film sheets, film laminate outer layer, and TPO coating on the laminate outer layer.

Specification

Applicant notes the Examiner's suggestion regarding the use of trademarks in the Specification. Applicant can confirm that this usage is respectful of the proprietary nature of the marks, and every effort is made to prevent their use in a manner that might adversely affect their validity.

Regarding that the specific name/mark should be in all caps, Applicants note that a formal objection to the Specification has not been made, and request that any objection or requirement for correction be held in abeyance until an indication of allowance is received.

In view of the above, Applicant submits that the rejections should be withdrawn, and that this Application is in condition for allowance.

Petition for an Extension of Time

Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), Applicant hereby petitions for an extension of three (3) months to April 6, 2005 for the period in which to file a response to the outstanding Office Action. The required fee of \$1020.00 is attached hereto.

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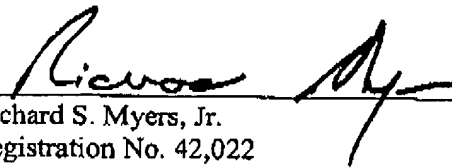
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Conclusion

From the foregoing, further and favorable reconsideration in the form of a Notice of Allowance is in order and such action is earnestly solicited.

If the Examiner has any questions concerning this Amendment or the Application in general, he is respectfully urged to contact Richard S. Myers, Jr. (Reg. No. 42,022) at the number listed below.

Respectfully submitted,



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